BUILDING COMMISSION

Budget Summary

Fund	2002-03 Base Year Doubled	2003-05 Governor	2003-05 Jt. Finance	2003-05 Legislature	2003-05 Act 33	Act 33 Change Over Base Year Doubled Amount	Percent
GPR	$86,060,600	$90,082,300	$75,892,200	$75,892,200	$75,892,200	- $10,168,400	- 11.8%
PR	0	336,500	336,500	336,500	336,500	336,500	0.0
SEG	2,048,400	2,048,400	2,048,400	2,048,400	2,048,400	0	0.0
TOTAL	$88,109,000	$92,467,200	$78,277,100	$78,277,100	$78,277,100	- $9,831,900	- 11.2%
BR		$2,700,000,000	$1,350,000,000	$1,350,000,000	$1,350,000,000		

FTE Position Summary

There are no full time positions authorized for the Building Commission.

Budget Change Items

1. DEBT SERVICE REESTIMATE [LFB Paper 195]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR-Lapse	$8,000,000	$0	$8,000,000
GPR	$4,021,700	- $14,190,100	- $10,168,400
PR	336,500	0	336,500
Total	$4,358,200	- $14,190,100	- $9,831,900

Governor: Decrease funding by $8,799,600 GPR and increase funding by $145,300 PR for 2003-04 and increase funding by $12,821,300 GPR and $191,200 PR for 2004-05 to reestimate sum sufficient debt service appropriations, as shown in the following table.

	Adjusted Base 2002-03	Change to Base 2003-04	2004-05	Total Debt Service 2003-04	2004-05
GPR Debt Service Appropriations					
Capitol and Executive Residence	$12,669,700	-$306,800	$2,737,500	$12,362,900	$15,407,200
Amounts Not Initially Allocated to Agencies	28,628,300	-8,943,700	8,574,600	19,684,600	37,202,900
Other Public Purposes	1,630,600	233,400	1,234,800	1,864,000	2,865,400
HR Academy Youth Center	15,000	111,700	111,700	126,700	126,700
Swiss Cultural Center	15,000	41,300	69,500	56,300	84,500
Milwaukee Police Youth Activity Center	56,700	23,200	23,700	79,900	80,400
Racine Discovery Place Museum	15,000	41,300	69,500	56,300	84,500
Total GPR	$43,030,300	-$8,799,600	$12,821,300	$34,230,700	$55,851,600
PR Debt Service Appropriation					
Capital Equipment Acquisition	$0	$145,300	$191,200	$145,300	$191,200

Estimate lapses from GPR sum sufficient debt service appropriations of $4,000,000 annually. These lapse amounts are associated with interest earnings on the bond security redemption fund that will be allocated to debt service appropriations in the biennium and from the reallocation of GPR debt service from the Building Commission's bonding authority for other public purposes and borrowing not initially allocated to specific programs to PR and SEG debt service appropriations.

Joint Finance/Legislature: Decrease funding by $6,936,100 GPR for 2003-04 and by $7,254,000 GPR for 2004-05 to reestimate sum sufficient debt service appropriations, as shown in the following table.

	Change to Governor 2003-04	2004-05	Total Debt Service 2003-04	2004-05
GPR Debt Service Appropriations				
Capitol and Executive Residence	-$202,800	-$370,100	$12,160,100	$15,037,100
Amounts Not Initially Allocated to Agencies	-5,865,100	-5,794,700	13,819,500	31,408,200
Other Public Purposes	-683,200	-1,069,000	1,180,800	1,796,400
HR Academy Youth Center	-91,400	-9,300	35,300	117,400
Swiss Cultural Center	-44,500	-5,200	11,800	79,300
Milwaukee Police Youth Activity Center	-4,600	-500	75,300	79,900
Racine Discovery Place Museum	-44,500	-5,200	11,800	79,300
Total GPR	-$6,936,100	-$7,254,000	$27,294,600	$48,597,600

2. REFUNDING GENERAL OBLIGATION DEBT PAYMENTS [LFB Paper 194]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
BR	$350,000,000	- $350,000,000	$0

Governor: Increase the amount of general obligation refunding bonds authorized under current law by $350 million, from $75 million to $425 million. Specify that these general obligation refunding bonds may not be issued unless requested by the Secretary of the Department of Administration (DOA), as described below, and that this additional bonding could not be issued after June 30, 2005.

Annually, on or before September 1, but not after 2005, require DOA to prepare an estimate of the net balances of the general fund for that fiscal year. Require that copies of the estimates be provided to the Co-chairpersons of the Joint Committee on Finance and to the Legislative Fiscal Bureau. Provide that if the estimated net general fund balance for the fiscal year, as certified by DOA, is less than the estimated net general fund balance for that fiscal year, as shown in the most recent fund condition schedule, the DOA Secretary could request that the Building Commission refund the whole or any part of any unpaid indebtedness used to finance tax-supported or self-amortizing facilities from this additional bonding. If issued, this proposed bonding would refund bonds that otherwise would have been paid off in the 2003-05 biennium.

Joint Finance/Legislature: Delete provision.

3. LAPSE OF CLEAN WATER FUND REVENUE OBLIGATION RESERVES

GPR-Lapse	$28,200,000

Governor/Legislature: Lapse an estimated $14,200,000 in 2003-04 and $14,000,000 in 2004-05 to the general fund from reserve funds associated with the clean water fund revenue obligation program. The clean water revenue obligation program provides financial assistance loans to municipalities in the state for construction and improving water treatment facilities. The revenue obligations issued to fund the program require that a certain amount of funds be placed in reserves in the event loan repayments from municipalities are insufficient to pay principal and interest to the revenue obligation bondholders.

Under this provision, the Department of Administration, using its current law authority, would liquidate investments in which some or all of these reserves are placed and lapse those funds to the general fund. The reserves would be replaced with a surety bond, which the state would purchase, that would provide the same level of security to the revenue obligation bondholders as the reserve funds.

4. OVERVIEW OF MAJOR BONDING PROPOSALS [LFB Papers 190, 191, and 192]

This item provides a brief overview of the purchase of tobacco securitization bonds and unfunded prior service pension obligation bond proposals included under the Governor and Joint Finance Committee/Legislature versions of the bill. A summary of provisions relating to each of these proposals are provided in the next two summary items.

Revenue Obligations for Purchase of Tobacco Securitization Bonds (Item #5). This proposal would establish a revenue obligation bond program, where DOA could purchase some or all of the state's outstanding tobacco securitization bonds. To finance these purchases, the Building Commission could issue up to $1.6 billion in revenue obligations. These newly-issued revenue obligation bonds would be backed by the tobacco settlement payments that would have otherwise been used to pay off the tobacco securitization bonds and by the state's moral obligation pledge to appropriate any funds that may be necessary to repay the obligations and maintain the required reserves. The bonds would likely be issued if the financing rate on the bonds were sufficiently less than the financing rate on the tobacco securitization bonds, which could allow the financial benefit or savings to flow to the state from the transaction. Under the proposal, any funds associated with these savings as determined by the Building Commission would be transferred in equal amounts to the tobacco control fund and general fund. The bill does not include any estimate of the possible savings under this proposal in the balances of these funds.

The Joint Finance Committee/Legislature deleted this proposal.

Pension Revenue Obligation or Appropriation Obligations Bonds (Item #6). This proposal would involve the state paying off all or part of its unfunded prior service pension liability through the issuance of up to $750 million in either revenue obligation bonds or appropriation obligation bonds. The bill would authorize the issuance of both types of obligations. The revenue obligation bond program would involve the issuance of bonds backed by the state's excise taxes on alcoholic beverages, cigarette and tobacco products. Debt service on these bonds would be first draw on the revenues associated with these excises taxes.

Appropriation obligation bonds would be payable from a GPR appropriation in the amounts appropriated by Legislature each year. Because repayments each year would be subject to appropriation, bonds would not be considered public debt of the state. Unlike other long term debt obligations, which are issued by the Building Commission, the DOA Secretary would have the authority to issue appropriation obligation bonds. Either revenue obligations or appropriation obligations would be backed by the state's moral obligation pledge to appropriate any funds that may be necessary to repay the obligations and maintain the required reserves.

DOA Capital Finance staff indicate that because the financing rate on any bonds issued would likely be lower than the current 8% financing rate on the state's unfunded prior service pension liability, the state would accrue financial benefits or savings from the transaction. The proposal assumes that the repayment of such bonds could be structured so that state would make no debt service payments on the bonds in the 2003-05 biennium. The state would realize savings associated with the transaction in the biennium, because bond proceeds under the transaction would be used to pay off the unfunded prior service pension liability, and payments on that liability would no longer have to be made in the biennium. Therefore, the proposal would provide DOA the authority to lapse or transfer to the general fund, an estimated $69,200,000 in funds that would otherwise have been expended to make the state's unfunded prior service pension liability payments in the 2003-05 biennium. Beginning in 2005-07, DOA staff indicate that the repayment structure on the bonds could mirror the payments the state would otherwise have made for the unfunded prior service pension liability if it had not been paid off.

The Joint Finance Committee/Legislature modified this proposal to allow the state to recapture unfunded pension liability payments made from January, 2003, through the time in which the bonds are issued to pay off the liability. As a result, total revenues lapsed or transferred to the general fund would be $88,922,000 in the biennium.

In addition, the Joint Finance Committee/Legislature extended the proposal to include the state's accumulated sick leave conversion credit program liability. DOA, or the Building Commission, would be authorized to issue up to $600 million of additional excise tax revenue obligations or appropriation obligations to pay off this unfunded liability. DOA would also have authority to lapse or transfer amounts from PR, SEG and FED appropriations to the general fund that would have otherwise been used to make payments on this unfunded liability in the biennium. DOA would also be authorized to assess each PR, SEG, and FED appropriation for debt service associated with bonds issued to pay off the liability. Estimated lapses to the general fund associated with this provision would total $25,145,600 in 2003-04 and $26,547,700 in 2004-05.

5. REVENUE OBLIGATIONS FOR PURCHASE OF TOBACCO SECURITIZATION BONDS [LFB Paper 190]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
BR	$1,600,000,000	- $1,600,000,000	$0

Governor: Establish a tobacco settlement bond purchase program, to be administered by the Department of Administration (DOA), to purchase any bonds issued by Badger Tobacco Asset Securitization Corporation (BTASC), which is the entity established under 2001 Acts 16 and 109 to securitize the state's tobacco settlement payments. Authorize the Building Commission to issue revenue obligations in the maximum amount that the Commission believes could be fully paid, on a timely basis, from monies from the tobacco settlement bond purchase program. Limit the amount of funds paid from revenue obligations issued to purchase, acquire, conduct, control, operate, or manage the tobacco settlement bond purchase program to $1,600,000,000.

Establish the tobacco settlement bond program as follows:

DOA Powers and Authority. Authorize the DOA Secretary to determine the requirements for funds for the tobacco settlement bond purchase program to be paid from revenue obligations issued and provide DOA all the powers necessary and convenient to distribute the revenues from the tobacco settlement bond purchase program and the proceeds of the revenue obligations under the program in accordance with statutes relating to state revenue obligation debt. Authorize DOA to enter into agreements with the federal government or its agencies, political subdivisions of this state, individuals, or private entities to insure, or provide additional security for the revenue obligations issued under the program.

Tobacco Settlement Bond Purchase Revenue Obligation Provisions. Require that the net proceeds of revenue obligations issued under the program be deposited in a fund in the state treasury, or an account maintained by a trustee. Require that these monies be used for ancillary payments and the provision of reserves, as determined by the Building Commission, and for the purchase by DOA of any bonds issued by BTASC, as determined by DOA. Require that any remaining monies be paid into a tobacco settlement bond purchase program redemption fund (redemption fund) or the tobacco settlement bond purchase program repayment fund (repayment fund), or both, as provided in the authorizing resolution.

Specify that unless otherwise provided in resolutions authorizing the issuance of revenue obligations under the program, or in other agreements with the owners of revenue obligations, each issue of revenue obligations under the program would be on a parity.

Tobacco Settlement Bond Purchase Program Repayment Fund. Create a repayment fund, which would be a separate nonlapsible trust fund. This fund would consist of all moneys received as revenues from bonds purchased under the tobacco settlement bond purchase program, any other revenues of the program dedicated to it by the authorizing resolution and all monies transferred to the fund from a newly-created appropriation to which proceeds from revenue obligations issued for the purchase of tobacco settlement bonds would be deposited. Specify that the State of Wisconsin Investment Board would have exclusive control of investment and collection of principal and interest of all monies loaned and invested from the fund.

Transfer of Funds from the Repayment Fund. Authorize the Building Commission to determine the monies deposited into the repayment fund that are to be transferred to the general fund and to the tobacco control fund, which would be authorized to receive these monies. Specify that any transfers would be in equal amounts to the tobacco control fund and to the general fund. Specify that only those monies in the repayment fund that are not required for paying reserves, ancillary payments, principal, interest and premiums, if any, on revenue obligations could be transferred.

Program Appropriations. Create the following appropriations and specify that their estimated expenditures would be excluded from the Chapter 20 appropriation schedule:

a. a continuing SEG appropriation for all proceeds from revenue obligations that are issued under the program and deposited into a fund in the state treasury, or in an account maintained by a trustee. Specify that these revenues could be used: (1) to purchase any bonds issued by BTASC, as determined by DOA; (2) for reserves; and (3) to make ancillary payments, as determined by the Building Commission. Specify that any remainder could be transferred to the repayment fund, or to a separate redemption fund or both, as provided in the authorizing resolution;

b. a sum sufficient SEG appropriation from the repayment fund to provide for reserves, to make ancillary payments, and to pay the redemption fund the amount needed to pay principal, interest, and premiums, if any, and to make ancillary payments relating to revenue obligations issued under the program. Specify that the remainder, as determined in the authorizing resolution, would be transferred in equal amounts to the general fund and to the tobacco control fund;

c. a SEG appropriation from the redemption fund for all monies received for the payment of principal, interest, and premiums, if any, on revenue obligations and for ancillary payments authorized by the authorizing resolution. Specify that all monies received by the fund would be irrevocably appropriated in accordance with state law and the authorizing resolution.

Legislative Findings. Specify that the Legislature finds and determines that the tobacco settlement bond purchase program is likely to produce sufficient net income to make timely payments of principal and interest on revenue obligations issued by the state to make the purchase and, therefore, would constitute a revenue-producing enterprise or program, as defined under current law.

Moral Obligation Pledge. Specify that the Legislature, recognizing its moral obligation to do so, expresses its expectation and aspiration that, if the funds in the repayment fund are insufficient to pay principal and interest on these revenue obligations, the Legislature would make an appropriation from the general fund sufficient to pay the principal and interest or to replenish a reserve fund, if applicable. Specify that an appropriation to honor this moral obligation pledge would not be subject to current law limitations on total GPR appropriations.

Modify current law governing the Legislature's moral obligation pledge, which the Legislature can apply to special fund and enterprise fund revenue obligation programs, to include the appropriation of funds to replenish a reserve fund, if applicable.

Modifications to Existing Revenue Enterprise Obligation Statutes. Make the following modifications to the statutes relating to the issuance of enterprise obligations: (a) provide that in addition to bondholders, other persons specified in the authorizing resolution for the issuance of particular enterprise obligations could have a mortgage lien or security interest in the income and property of each revenue-producing enterprise; (b) clarify that a security interest could also be a mechanism to which the income and property of a revenue producing enterprise would be subject until enterprise obligations, and other obligations specified in the authorizing resolution, are paid in full; (c) specify that that the lien or security interest that is provided for the benefit of the enterprise obligation owners, or other persons specified in authorizing resolution for such obligations, would have priority over all conflicting security interests in the income and revenue producing enterprise or program; (d) delete the current law requirement that to issue parity bonds, the authorizing legislation for the initial issue of enterprise obligations has to permit it, and instead provide that either the Legislature, in the statutes authorizing a particular issue of enterprise obligations, or the authorizing resolution providing for the issuance of a particular enterprise obligation, could permit the issue of additional enterprise obligations or other obligations on a parity with, or senior to, that particular issue of obligations; (e) modify current law governing the allocation of revenues in the authorizing resolution for enterprise obligations, to also include ancillary payments and payments for other purposes; and (f) modify current law allowing recomputation of the allocation of revenues after one year's operation, to specify that such recomputation would be subject to the authorizing resolution.

Modify the current law requirement that unless an authorizing resolution for revenue obligations specifies a shorter period, the resolution expires one year after the date of its adoption, to instead allow the resolution to specify a shorter or longer period as an alternative to expiring in a year.

Joint Finance/Legislature: Delete provision.

6. UNFUNDED PENSION LIABILITIES -- REVENUE OBLIGATIONS AND APPROPRIATION OBLIGATIONS [LFB Papers 191 and 192]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
BR	$750,000,000	$600,000,000	$1,350,000,000
GPR-Lapse	$69,200,000	$71,415,300	$140,615,300

Governor: Authorize two separate types of bonding, either one of which could be used to pay off the state's unfunded pension liability. The first two sections of this item summarize the bill provisions relating to each type of bonding, while the third section describes the GPR-Lapse or transfer requirement common to both.

Revenue Obligations

Authorize the Building Commission to issue revenue obligations backed by the state's alcoholic beverage, cigarette, and other tobacco products taxes to pay the state's unfunded prior service pension liability. Specify that the amounts of the state's unfunded prior service liability to be paid from revenue obligations would be determined by the Department of Administration (DOA) Secretary, but could not exceed $750,000,000.

Create the following provisions related to the establishment of a program to issue revenue obligations for the payment of state's unfunded prior service liability under the Wisconsin Retirement System:

Revenue Obligation Authority. Authorize the DOA Secretary to determine the requirements for funds used for the payment of the state unfunded prior service pension liability. Further, provide DOA all the powers necessary and convenient to distribute the state's excise tax revenues and distribute the proceeds of the revenue obligations in accordance with the law governing revenue obligations. Authorize DOA to enter into agreements with the federal government or its agencies, political subdivisions of this state, individuals, or private entities to insure, or provide additional security for these revenue obligations.

Subject to the $750,000,000 limit for the program, authorize the Building Commission to issue revenue obligations payable from the excise tax fund in the maximum amount that the Commission believes can be fully paid on a timely basis from monies received or anticipated to be received in the excise tax fund.

Excise Tax Fund. Create an excise tax fund, which would be a separate, nonlapsible trust fund and would be considered a special fund for the purposes of issuing revenue obligations. Provide that if any revenue obligations are issued for the payment of the state's unfunded prior service pension liability, all taxes that are thereafter paid under the state's alcoholic beverage, cigarette, and other tobacco products taxes would be deposited in the excise tax fund.

Provide that any monies deposited in the excise tax fund that are not required for the retirement of revenue obligations, for reserves, and for ancillary payments would be transferred to the general fund, as determined by the Building Commission. Specify that the State of Wisconsin Investment Board would have exclusive control of investment and collection of principal and interest of all monies loaned and invested from the fund.

Unfunded Prior Service Liability Revenue Obligations Provisions. Specify that the net proceeds of revenue obligations issued under the program would be deposited in a fund in the state treasury, or an account maintained by a trustee. Require that these monies be applied for ancillary payments and reserves, as determined by the Building Commission, and for the payment of state's unfunded prior service liability, as determined by DOA. Specify that any remaining monies would be paid into a prior service liability obligation redemption fund.

Specify that unless otherwise provided in the authorizing resolution or in other agreements with the owners of revenue obligations, each issue of revenue obligations would be on a parity.

Program Appropriations. Create the following appropriations and specify that estimated expenditures from the appropriations would be excluded from the Chapter 20 appropriation schedule, except for the appropriation from the excise tax fund for the provision of reserves and ancillary costs:

a. a continuing SEG appropriation for all proceeds from revenue obligations that are issued under the program and deposited into a fund in the state treasury, or in an account maintained by a trustee. Specify that these revenues could be used to pay part, or all, of the state's unfunded prior service pension liability, as determined by DOA, and to provide for reserves and make ancillary payments, as determined by the Building Commission. Further specify that the remainder could be transferred to a prior service liability redemption fund;

b. a sum sufficient SEG appropriation from the excise tax fund to make payments to the prior service liability redemption fund amounts needed to pay principal, interest and premiums, if any, on revenue obligations issued under the program and to make ancillary payments provided for under the authorizing resolution;

c. a sum sufficient SEG appropriation from the excise tax fund to provide for reserves, to make ancillary payments relating to these revenue obligations;

d. a SEG appropriation from the prior service liability redemption fund of all monies received by the fund for the payment of principal, interest, and premiums, if any, on revenue obligations and for ancillary payments provided under the authorizing resolution. Specify that all monies received by the fund would be irrevocably appropriated as provided under law and in any authorizing resolutions.

Moral Obligation Pledge. Specify that the Legislature, recognizing its moral obligation to do so, expresses its expectation and aspiration that, if the funds in the excise tax fund would be insufficient to pay the principal and interest on these revenue obligations, the Legislature would make an appropriation from the general fund sufficient to pay the principal and interest or to replenish a reserve fund, if applicable. Specify that an appropriation to honor this moral obligation pledge would not be subject to the current law limitations on total GPR appropriations.

Security Interests. Provide that in addition to the owners of special fund obligations as under current law, other persons specified in the authorizing resolution of the obligations would have a security interest in monies placed in a special fund related to such obligations. Also, current law requires that the special fund be subject to this security interest requirement until the full payment of principal and interest on the special fund obligation have been made. The bill would require that the security interest also be in place until any other obligations specified in the authorizing resolution of special fund revenue obligations have been made.

Specify that the security interest for the benefit of the owners of the special fund obligations and other persons specified in the authorizing resolution providing for the issuance of the particular special fund obligations would have priority over all conflicting security interests to the fees, penalties, or excise taxes that are required to be deposited in the special fund. Further specify that for any different special fund obligations secured by those same fees, penalties, or excise taxes, priority of the security interests would be according to the date of issuance of the special fund obligation or the incurrence of the other obligations specified in the authorizing resolution. Any earlier issuances or obligations incurred would have priority over later issuances or obligations, unless the laws governing, or authorizing resolution providing for, the issuance of a particular special fund obligation permit later issuances or incurred obligations on a parity or priority basis.

Legislative Findings. Specify that the issuing of revenue obligations for the purpose of paying of the state's unfunded prior service liability under the Wisconsin Retirement System would be a special fund program, and the excise tax fund would be a special fund. Specify that the Legislature finds and determines that the fund would be a segregated fund consisting of fees, penalties, or excise taxes and that the special program to pay the state's unfunded prior service liability from the revenue obligations issued under the special program is appropriate and will serve a public purpose.

Modifications to Revenue Obligation Debt. Delete current law that specifies that the Building Commission's authority to enter into agreements and ancillary arrangements for general obligation debt applies to revenue obligation debt. Instead, create a similar provision under the statutes governing revenue bonds that would authorize the Commission, at the time of, or in anticipation of, issuing revenue obligations, and at any time revenue obligations are outstanding, to enter into agreements and ancillary arrangements relating to the revenue obligations. The types of agreements would be the same as those under current law, with the addition of trust indentures. Specify that any payment made or received pursuant to such agreements or ancillary arrangements would be made from, or deposited to, a fund relating to the relevant revenue obligation as determined by the Commission. Specify that ancillary payments would mean payments for issuance costs and expenses, payments under contracts entered into under an agreement or ancillary arrangement, payments of accrued or funded interest, and payments of other costs and expenses of administering revenue obligations.

Delete the Building Commission's specific authority to purchase insurance on revenue obligations, which could be purchased as part of an agreement or ancillary arrangement.

Delete current law that provides that the cost of issuing revenue obligations is an allowable purpose. Instead, unless otherwise provided in laws applicable to the issuance of a specific revenue obligation, require the Building Commission to establish the amounts needed for ancillary payments and reserves relating to the revenue obligations. Specify that current law governing the amount of revenue obligations issued or outstanding for a specific purpose would apply to these ancillary payments or reserves.

Provide that a separate and distinct fund is required to be established for any special fund program financed by the issuance of special fund obligations and not just those special programs created by the imposition of fees, penalties or excise taxes, as under current law. Specify that any premium received on the issuance of revenue obligations would not be required to be credited to the redemption fund as under current law, but rather would be credited as provided under the authorizing resolution. Require that payments to be received under an agreement or ancillary arrangement with respect to the issuance of revenue obligations would be credited to the appropriate fund, as determined by the Building Commission. Modify current law governing the expenditure of monies in such funds, to delete references to issuance costs and instead refer to the broader category of ancillary payments.

Enterprise and Special Fund Obligations. Delete current law that specifies that enterprise obligation redemption fund revenues can be expended for other obligations that are secured by the property or income, or both, of the enterprise or program. Instead clarify that redemption fund revenues associated with a specific revenue obligation could be used to make payments under an agreement or ancillary arrangement associated with those revenue obligations, as indicated in the authorizing resolution for those obligations**.**

Delete the requirement that principal and interest payments on enterprise obligations must be deposited to the redemption fund monthly as they accrue and are received. Rather, allow that deposit of these payments be made, along with the payments on any agreements or ancillary arrangements on the enterprise obligations as directed by the Building Commission, at times as provided for in the authorizing resolution.

Appropriation Obligations

Authorize the Department of Administration (DOA) to issue up to $750,000,000 in appropriation obligations to pay part, or all, of the state's unfunded prior service pension liability. Specify that an appropriation obligation would be an undertaking by the state to repay a certain amount of borrowed money that would be payable from the annual appropriation of funds by the Legislature for debt service due on such obligations in that year. Specify that the appropriation obligations could only be used to pay the state's unfunded prior service pension liability and would not be public debt as defined by statute. Specify that an evidence of an appropriation obligation would mean a written promise to pay an appropriation obligation.

Create the following provisions related to the use of appropriation obligations for payment of the state's unfunded prior service liability under the Wisconsin Retirement System:

Appropriation Obligation Authority. Authorize DOA to issue appropriation obligations of the state and provide DOA all the powers necessary and convenient to carry out its duties and exercise its authority related to the issuance of these obligations. Provide that the principal amount of these appropriation obligations could not exceed $750,000,000, excluding any obligations that have been defeased under the Building Commission's cash optimization program. Provide that in addition to the limit on the principal amount of obligations, DOA would be allowed to issue appropriation obligations to: (a) fund or refund outstanding appropriation obligations; (b) to pay issuance or administrative expenses; (c) to make deposits to reserve funds; (d) to pay accrued or funded interest; (e) to pay the costs of credit enhancement; or (f) to make payments under agreements or ancillary arrangements.

Provide that money could be borrowed and appropriation obligations could be issued under one or more written authorizing certifications unless otherwise provided in the certification. Specify that these borrowings and obligations could occur any time, in any specific amounts, at any rates of interest, for any term, payable at any intervals, at any place, in any manner, and having any other terms or conditions that DOA considers necessary or useful. Specify that such appropriation obligations could bear interest at variable or fixed rates, bear no interest, or bear interest payable only at maturity or upon redemption prior to maturity.

Provide that appropriation obligations could be in the form of bonds, notes, or other evidences of obligation, and could be issued in book-entry form or in certificated form.

Notwithstanding the Uniform Commercial Code statutes relating to negotiable instruments, specify that every obligation would be a negotiable instrument.

Require the following related to evidences of appropriation obligations:

a. every evidence of appropriation obligation would be executed in the name of and for the state by the Governor and the State Treasurer and would be sealed with the great seal of the state or a facsimile of the seal. Specify that a facsimile signature of either the Governor or State Treasurer, or both, could be imprinted in lieu of the manual signature of such officer, as directed by DOA, if approved by such officer. An evidence of appropriation obligation bearing the manual or facsimile signature of a person in office at the time such signature was signed or imprinted would be fully valid, regardless of whether the person remains in office;

b. every evidence of appropriation obligation would be dated not later than the date issued, contain a reference by date to the appropriate authorizing certification, and be in accordance with that certification;

c. every evidence of appropriations would have to indicate that the state is not generally liable for the obligations and principal and interest of the obligations is payable only from those amounts appropriated by the Legislature; and

d. an evidence of appropriation obligation would be in such form and contain such statements or terms, as determined by DOA, and could not conflict with law or with the appropriate authorizing certification.

Appropriations. Create the following appropriations:

a. an annual, sum certain GPR appropriation under DOA to pay debt service costs due in the current fiscal year on appropriation obligations; and

b. a PR appropriation for all monies received as proceeds from appropriation obligations that are issued to pay part or all of the state's unfunded prior service pension liability as determined by DOA, and to provide for reserves and for expenses of issuance and administration of the appropriation obligations, and any related obligations incurred under agreements entered into. Specify that the estimated expenditures under this appropriation would be excluded from the Chapter 20 appropriation schedule.

State Moral Obligation Pledge. Provide that the Legislature, recognizing its moral obligation to do so, expresses its expectation and aspiration that it would make timely GPR appropriations that are sufficient to pay the principal and interest due on appropriation obligations in any year. Specify that any appropriation to honor this moral obligation pledge would not be subject to the current law limitations on state GPR appropriations.

Terms of Appropriation Obligations. Specify that appropriation obligations could not be issued by the state except under a written authorizing certification. Require that the certification include the aggregate principal amount of appropriation obligations authorized, the manner of sale of obligations, and their form and terms. Further, require that the certification be signed by the DOA Secretary, or his or her designee, and be transmitted to the Governor and the State Treasurer.

Provide that appropriation obligations could be sold at either public or private sale and at any price or percentage of par value. DOA would be allowed to provide in any authorizing certification for refunding obligations that the refunding obligations could be exchanged privately in payment of any of the outstanding obligations being refinanced. Require that appropriation obligations sold at public sale to be noticed as provided in the authorizing certification and any bid received at public sale could be rejected.

Authorize DOA to issue appropriation obligations having any provisions for prepayment considered necessary or useful, including the payment of any premium. Specify that interest would cease to accrue on an appropriation obligation on the date that the obligation becomes due for payment if payment is made or duly provided for, but the obligation and accrued interest would continue to be a binding obligation according to its terms until six years overdue for payment, or such longer period as may be required by federal law. At that time, unless demand for its payment has been made, the obligation and accrued interest would be extinguished.

Authorize DOA, at the time of, or in anticipation of, issuing appropriation obligations, or after as long as the appropriation obligations are outstanding, to enter into agreements and ancillary arrangements relating to the appropriation obligations, including trust indentures, liquidity facilities, remarketing or dealer agreements, letter of credit agreements, insurance policies, guaranty agreements, reimbursement agreements, indexing agreements, or interest exchange agreements. Specify that any payments made or received under these agreements or ancillary arrangement would be made from or deposited into a program revenue appropriation.

Specify that all appropriation obligations owned or held by any state fund would be outstanding in all respects, and that the state agency controlling the fund would have the same rights as a private party. If any sinking fund would acquire appropriation obligations that gave rise to such fund, the obligations would be considered paid and would be canceled as provided under the bill. Require that all appropriation obligations owned by any state fund be registered to the fullest extent.

Specify that the state would not be generally liable for appropriation obligations and that appropriation obligations would not be a debt of the state. Appropriation obligations would be required to be payable only from amounts that the Legislature appropriates. Specify that all money borrowed by the state through appropriation obligations would be lawful money of the United States, and all appropriation obligations would be paid in such money.

Refunding Obligation Authority. Authorize DOA to issue appropriation obligation refunding obligations. Specify that refunding obligations could be issued, subject to any contract rights of owners of obligations being refinanced, to refinance all or any part of one or more issue of obligations, even if the obligations may have been issued at different times. The principal amount of the refunding obligations could not exceed the sum of: (a) the principal amount of the obligations being refinanced; (b) applicable redemption premiums; (c) unpaid interest on the obligations to the date of delivery or exchange of the refunding obligations; (d) in the event the proceeds are to be deposited in trust, interest to accrue on the obligations from the date of delivery to the date of maturity or to the redemption date selected by DOA, whichever is earlier; and (e) the expenses incurred in the issuance and payment of the refunding obligations. Specify that a determination by DOA that a refinancing is advantageous or that any of these amounts should be included in the refinancing would be conclusive.

Provide that if DOA, would determine to exchange refunding obligations, these obligations could be exchanged privately for any of the outstanding obligations being refinanced. Provide that refunding obligations could be exchanged for such principal amount of the obligations being exchanged, as determined by DOA to be necessary or advisable. Specify that the owners of the obligations being refunded, who elect to exchange their obligations, need not pay accrued interest on the refunding obligations if interest is accrued and unpaid on the obligations being refunded. If any of the obligations to be refinanced are to be called for redemption, DOA would be required to determine which redemption dates are to be used, if more than one date is applicable and would have to, prior to the issuance of the refunding obligations, provide for notice of redemption to be given in the time and manner required by the certification authorizing the outstanding obligations.

Use of Refunding Obligation Proceeds. Require that the principal proceeds from the sale of any refunding obligations be applied either to the immediate payment and retirement of the obligations being refinanced or, if the obligations have not matured, to the creation of a trust pledged to the payment of the obligations being refinanced. If a trust would be created, a separate deposit would be required to be made for each issue being refinanced. Each deposit would be required to be with the State Treasurer or a bank or trust company that is a member of the Federal Deposit Insurance Corporation.

Specify that if the total amount of any deposit to a trust, including available monies other than sale proceeds, is less than the principal amount of the obligations being refinanced together with applicable redemption premiums and interest to accrue, then the sale proceeds would be legally sufficient only if: (a) the money deposited is invested in securities issued by the United States or one of its agencies, or securities fully guaranteed by the United States; and (b) the principal and income of the securities at maturity would be sufficient and available, without any other investment, to pay the principal amount of the obligations being refinanced, any applicable redemption premiums and interest accrued. Any income from the securities would be required to be applied solely to the payment of the principal, interest and redemption premiums on the obligations being refinanced. However, provision could be made for the disposition of any surplus income.

Specify that none of the requirements relating to the use of refunding proceeds could be considered: (a) as a limitation on the duration of any deposit in trust for the retirement of obligations being refinanced that have not matured; or (b) to prohibit reinvestment of the income of a trust if sufficient cash would be available to pay interest, applicable premiums, and principal on the obligations being refinanced.

Administrative Requirements. Require the State Treasurer to act as registrar for each appropriation obligation. Specify that no transfer of a registered appropriation obligation would be valid unless made on a register maintained by the State Treasurer. Authorize the State Treasurer to enter into a contract for the performance of any of his or her functions relating to appropriation obligations. Require the State Treasurer, or agent, to maintain records containing a description of each appropriation obligation issued, and showing its date, issue, amount, interest rate, payment dates, payments made, registration, destruction, and other relevant transaction.

Provide that the state could treat the registered owner as the owner for all purposes. Unless otherwise provided by DOA, require that payments of principal and interest could only be made by electronic funds transfer, check, share draft, or other draft to the registered owner at the owner's address, as it appears on the register. Specify that information in the register would not be available for inspection and copying under state law relating to access to public records. Authorize DOA to make any other provision with respect to registration that it considers necessary or useful.

Authorize the DOA Secretary to appoint one or more trustees and fiscal agents for each issue of appropriation obligations. Provide that the State Treasurer could be the trustee and the sole fiscal agent or a co-fiscal agent. Require that every other fiscal agent be an incorporated bank or trust company, authorized by the laws of the United States or of the state in which it is located for banking or trust company business. Specify that monies could be deposited with a trustee in a special account, to be used only for the purposes provided in the certification authorizing the issuance of appropriation obligations or in an agreement between DOA and the trustee. Authorize DOA to make other arrangements with respect to trustees and fiscal agents as it considers necessary or useful. Authorize DOA to enter into a contract with any trustee or fiscal agent containing terms, including compensation, it considers necessary or useful.

If any evidence of appropriation obligation would be destroyed, lost, or stolen, require DOA to deliver a new evidence of appropriation obligation if the following is provided to DOA: (a) satisfactory evidence that the appropriation obligation has been destroyed, lost, or stolen; (b) proof of ownership of the appropriation obligation; (c) a satisfactory indemnity; (d) compliance with other DOA rules; and (e) payment of any expenses that DOA or the State Treasurer could incur.

Require DOA to cancel any evidences of appropriation obligation surrendered to DOA. Specify that unless otherwise directed by DOA, every evidence of appropriation obligation that is paid or otherwise retired would be marked canceled and delivered, through the State Treasurer, to the State Auditor. Require the State Auditor to destroy the canceled obligation and provide the State Treasurer a certificate indicating that the obligations have been destroyed.

Allowable Investors in Appropriation Obligations. Specify that the following could legally invest sinking funds or other funds belonging to them or under their control in appropriation obligations issued by DOA:

a. the state, the Investment Board, public officers, municipal corporations, political subdivisions, and public bodies;

b. banks and bankers, savings and loan associations, credit unions, trust companies, savings banks and institutions, investment companies, insurance companies and associations, and other persons carrying on a banking or insurance business; and

c. personal representatives, guardians, trustees, and other fiduciaries.

Legislative Finding. Create a legislative finding that the state, by prepaying its unfunded prior service liability, could reduce its costs and better ensure payment of retirement benefits. Specify that the Legislature determines that it is in the public interest for the state to issue appropriation obligations.

Lapse Amounts of State Agency Payments for Unfunded Prior Service Liability

If these revenue obligations or appropriation obligations would be issued, require the DOA Secretary to determine for each state agency, the amount by appropriation that each agency would have been required to expend for its portion of the state's unfunded prior service pension liability during the 2003-05 biennium had the obligations not been issued. Specify that this would exclude the Department of Employee Trust Funds and the Investment Board, which are funded using pension trust fund monies. Estimate these lapse or transfer amounts at $33,100,000 in 2003-04 and $36,100,000 in 2004-05.

Require the Secretary to lapse to the general fund, from GPR, PR and PR-S appropriations, the amounts determined by the Secretary that would otherwise have been expended from each of the appropriations for the state's unfunded prior service liability. For SEG and SEG-S appropriations, require the Secretary to lapse the amount that would otherwise have been expended from each of the appropriations to each underlying segregated fund and transfer an amount equal to the lapsed amount from each underlying segregated fund to the general fund. Require the DOA Secretary to make these lapses on the day on which the state agency would otherwise have been required to make the expenditure. Specify that after the Secretary makes the lapse, each of the sum certain appropriations would be decreased by the amount identified for that appropriation.

Specify that for each GPR and SEG sum sufficient appropriations that would be subject to the lapse requirement, the expenditure estimate for the appropriation during the 2003-05 biennium would be required to be reestimated to subtract the amount identified to be lapsed from these appropriations. For each FED or SEG-F appropriation, the DOA Secretary would be required to determine the amount that would be lapsed or transferred to the general fund from each appropriation.

Joint Finance/Legislature: Reestimate the GPR-Lapse amounts associated with the Governor's proposal to be $68,922,000, which would be $278,000 less than the GPR lapse estimates included under the bill (estimated savings would be $1,310,000 greater in 2003-04 and $1,588,000 less in 2004-05).

Direct the DOA Secretary to determine for each state agency, other than for ETF and the State of Wisconsin Investment Board, the amounts credited by ETF to each agency's nonfederal PR, PR-S, SEG and SEG-S appropriations during 2003-04 associated with the state liquidating its unfunded accrued prior service pension liability. Direct the DOA Secretary, in making the calculation, to determine the amounts credited by ETF for the payment of unfunded pension liability contributions under the WRS since the last principal payment was credited to that liability in January, 2003. During 2003-04, direct the Secretary of DOA to transfer the amounts calculated from each affected state agency's nonfederal PR and PR-S appropriations to the general fund. Similarly, direct the Secretary to lapse the amounts calculated from each affected agency's nonfederal SEG and SEG-S appropriations to the appropriate segregated fund. After making this lapse, direct the Secretary to transfer an amount equal to the amounts lapsed from the appropriate segregated funds to the general fund. This action would result in an estimated additional GPR-lapse of $20,000,000 in 2003-04.

Direct the DOA Secretary to assess each PR and SEG account, and FED account, if federal funds are involved in the transaction, for the percentage of debt service costs that are associated with each fund's share of the unfunded pension liability that would have otherwise been paid by those funding sources. In making this determination, require the DOA Secretary to include in their biennial budget fringe benefit calculations the percentage each fund source's contribution to debt service on the pension bonds in that biennium, which would be based on the percentage that each fund source makes up of the state's unfunded liability at the time liability is liquidated. Extend, until the pension bonds are retired, the authority provided under the bill that would allow the DOA Secretary to lapse or transfer each agency's unfunded liability payments to the general fund.

Accumulated Sick Leave Conversion Credit Program Liability. Extend the Governor's proposal to include the issuance of bonds to pay off the state's unfunded accumulated sick leave conversion credit program liability. Authorize DOA or the Building Commission to pay off all or part of the state's unfunded accumulated sick leave conversion credit program liability through the issuance of up to $600 million in either revenue obligation bonds or appropriation obligation bonds. Authorize DOA to lapse or transfer to the general fund, an estimated $51,693,300 ($25,145,600 in 2003-04 and $26,547,700 in 2004-05) from agency appropriations from which fringe benefit funding is provided that would otherwise have been expended to make the state's unfunded accumulated sick leave conversion credit program liability payments in the 2003-05 biennium.

In addition, direct the DOA Secretary to assess each PR and SEG account, and FED account, if federal funds are involved in the transaction, for the percentage of debt service costs that are associated with each fund's share of the unfunded accumulated sick leave conversion credit program liability that would have otherwise been paid by those funding sources. In making this determination, require the DOA Secretary to include in the biennial budget fringe benefit calculations the percentage of each fund source's contribution to debt service on bonds issued to pay of the state's accumulated sick leave conversion credit program liability in that biennium. Specify that the calculation be based on the percentage that each fund source makes up of the state's unfunded accumulated sick leave conversion credit program liability at the time the liability is liquidated. Authorize, until the bonds are retired, the DOA Secretary to lapse or transfer each agency's unfunded accumulated sick leave conversion credit program liability payments to the general fund. Include debt service payments on bonds, issued for paying off the state's accumulated sick leave conversion credit program liability as an allowable use of funds under the debt service appropriation created under the bill.

Require that the any amount of excise tax revenue bond obligation issued for either liability would reduce the bonding authority for appropriation obligation bonds, and vice versa. This would statutorily limit the overall amount of bonds authorized to $1,350,000,000 for both the unfunded prior service liability and the accumulated sick leave conversion credit program liability.

[Act 33 Sections: 21, 171m, 172m, 181, 182, 182d, 252 thru 267, 567, 571, 577 thru 580, 835, 860, and 9101(9)&(9q)]

7. AGREEMENTS AND ANCILLARY ARRANGEMENTS ON GENERAL OBLIGATION DEBT AND OPERATING NOTES [LFB Paper 193]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR-Lapse	$4,500,000	- $4,500,000	$0

Governor: Modify current law authorizing agreements or ancillary arrangements relating to state general obligation debt, and operating notes.

Based on information from the administration, these modifications would allow the state to sell certain investment options associated with general obligation bonds to a third party at the time such obligations are issued. Under these investment options, the state would sell a right associated with a long-term obligation issue to a financial institution. The right would allow that institution to compel the state to call its fixed rate long-term bonds in the future. To meet this call, the state would issue lower variable rate bonds, which the financial institution would agree to pay off. In exchange, the state would continue to pay the investment bank the long-term fixed rate on the new amount borrowed. This option allows the state to sell an agreement or arrangement for a future right to a financial institution now that could allow the financial institution the ability to take advantage of any future interest rate differences on the state's fixed rate debt and the corresponding variable rates at that time.

DOA Capital Finance officials estimate that the state could receive $4,500,000 in 2003-04 associated with the sale of these agreements or arrangements. These amounts would be applied to the GPR debt service appropriations that correspond to the purposes for which the initial bonds are sold. Because the purposes of bonds for which these agreements or arrangements may be sold are not known, for the purposes of the state's general fund condition statement the amounts would be considered to lapsed from these GPR sum sufficient debt service appropriations.

The bill would make the following modifications to relating to the payment and receipt of funds on agreements and ancillary arrangements associated with state general obligation bonds and operating notes:

Modifications to State General Obligation Debt. Specify that the Building Commission could enter into agreements or ancillary arrangements at the time of, or in anticipation of, or after issuing public debt. Authorize the Building Commission to determine whether any payments received or paid on agreements or ancillary arrangements relating to public debt would be deposited into, or made from, the bond security redemption fund (BSRF) or the capital improvement fund (CIF). Require that the Commission make this determination when the Commission contracts for any such agreement or ancillary arrangements. Specify that the Commission, in making payment from these funds, would also have the authority to determine the timing of any transfer of funds.

Provide that monies received from the issuance of public debt or payments from any agreement or ancillary arrangement relating to public debt would be deposited in the CIF, except as follows: (a) any monies representing accrued interest or that are for funding or refunding bonds would be credited to the BSRF or the building trust fund; and (b) any monies that represent a premium or that are from an agreement or ancillary arrangement relating to public debt could be credited to the BSRF or the CIF, as determined by the Building Commission. Under current law, monies received from the issuance of public debt are deposited in the CIF, except that any monies representing a premium or accrued interest or that are for funding or refunding bonds are credited to the BSRF or the building trust fund.

Authorize expenditures from the CIF for any payment due under an agreement or ancillary arrangement with respect to public debt and modify current law governing the transfer of the proceeds of public debt to the CIF to pay loans or notes, to also apply to these payments.

Modify current law governing expenditures from the BSRF to add payments due under an agreement or ancillary arrangement as an allowable purpose. Under current law, the BSRF is used to pay principal, interest and premium, if any, on public debt. Related provisions concerning debt service appropriations and the BSRF would be modified to reflect this additional spending purpose.

Delete the current law limitation that an interest exchange agreement is not considered public debt of the state.

M*odifications to Operating Note Obligations.* Delete current law references that specify that the Building Commission's authority to enter into agreements and ancillary arrangements for public debt applies to operating notes. Instead, create similar authority under the statutes governing operating notes, except specify that the Commission would have that authority at the time of, or in anticipation of, and after issuing operating notes. Delete the Building Commission's specific authority to purchase insurance on operating notes, which, under the bill, could be purchased as part of an agreement or ancillary arrangement.

In addition, specify that any payment made or received under such agreements or arrangements would be made from, or deposited to, the general fund or the operating note redemption fund, as determined by the Commission.

Specify that all moneys resulting from payments to be received under an agreement or ancillary arrangement regarding operating notes would be credited to the general fund. Authorize the operating note redemption fund to make payments due on an agreement or ancillary arrangement entered into with respect to operating notes. Specify that the payments due under these agreements or arrangements with respect to operating notes would be an allowable purpose for which funds could be transferred from the GPR sum sufficient appropriation for debt service on operating notes to the operating note redemption fund.

Joint Finance/Legislature: Delete provision.

8. GENERAL OBLIGATION AND REVENUE OBLIGATION MODIFICATIONS

Governor/Legislature: Make the following modifications to the statutes relating to general obligation and revenue obligation debt:

a. delete the requirement that the Building Commission periodically require competitive proposals, under procedures established by the Commission, for fiscal agent services and that the Commission consult the State Treasurer in doing so;

b. delete current law that authorizes the deposit with a fiscal agent, in a special dedicated account, of monies sufficient to enable the fiscal agent to pay the principal and interest on public debt which will come due not more than 15 days after the deposit;

c. delete the current law references to interest coupons in provisions relating to required features of evidences of indebtedness;

d. clarify that current law authorizing the procurement of financial services by the Building Commission would also apply to revenue obligation debt;

e. authorize payments of principal and interest for registered public debt to be made by electronic transfer;

f. delete references to interest coupons on bonds acquired by a sinking fund that was generated by those bonds;

g. delete current law for revenue obligations requiring that refunding obligations be exchanged for a like or greater principal amount, unless the Building Commission determines that additional obligations are needed to pay redemption premiums and unpaid interest to the date of exchange. Instead, authorize the exchange of amounts refunding obligations determined by the Commission to be necessary or advisable; and

h. expand current law that limits the investment of the bond security and redemption fund to direct obligations of the United States, to allow the fund's assets to be invested in securities issued by the United States, or one of its agencies, and securities fully guaranteed by the United States.

[Act 33 Sections: 243, 249, 250, 251, 252, 268, and 842]